

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

Alexander Friedmann, Individually
And As A Managing Editor of
PRISON LEGAL NEWS

Petitioner,

V.

TENNESSEE DEPARTMENT OF CORRECTION

Respondent

**PETITION FOR ACCESS TO PUBLIC RECORDS AND
TO OBTAIN JUDICIAL REVIEW OF DENIAL OF ACCESS**

TO THE HONORABLE CHANCELLORS OF THE CHANCERY COURT FOR THE
TWENTIETH DISTRICT:

Pursuant to the Tennessee Public Records Act, T.C.A. §§ 10-7-501, *et seq.* to 10-7-505, ("Act"), Petitioner Alexander Friedmann petitions this Court for access to certain public records and to obtain judicial review of the actions of the Respondents in denying the petitioner access to those records. In support of such petition, Petitioner states as follows:

1. Alexander Friedmann (Petitioner) is a citizen of the State of Tennessee whose requests to exercise his right to obtain copies of public records under the Act have been ignored. Petitioner is also a Managing Editor of *Prison Legal News*, a nationally distributed publication that reports on news and litigation related to prisons, jails, and the criminal justice system.

2. Respondent, Tennessee Department of Correction ("TDOC"), is a Tennessee state agency that manages and operates fourteen prisons housing over twenty thousand offenders.

TDOC also supervises seventy-nine thousand offenders on probation, parole, or community corrections.

3. This Court has subject matter jurisdiction of this petition, and venue is proper in this Court under T.C.A. § 10-7-505(b).

4. The Tennessee Public Records Act, T.C.A. § 10-7-501, *et seq.*, applies to records “made or received” in connection with the transition of official business by “any governmental entity,” which includes TDOC. *See* T.C.A. § 10-7-503(a)(1)(A)(i).

5. At all times pertinent to the request, TDOC, a department of the Tennessee state government, has operated or managed Tennessee prisons and/or jails. TDOC is a governmental entity subject to § 10-7-503.

6. Tennessee law provides that the custodian of a public record “shall promptly make available for inspection any public record not specifically exempt from disclosure.” T.C.A. § 10-7-503(a)(2)(B). If it is not practicable for the record custodian to produce the record promptly, the custodian shall, within seven days, make the record available, deny the request in writing and state a basis for so denying it, or return a form to the requestor stating the time reasonably necessary to produce the record. T.C.A. § 10-7-503.

7. On July 17, 2019, Petitioner sent an Open Records Request pursuant to T.C.A. § 10-7-501, *et seq.*, and in particular § 10-7-503, to Neysa Taylor, one of the employees at the TDOC, requesting the right to obtain copies of certain public records maintained by TDOC. (Exs. A, J).

8. The requested records are not exempt from disclosure under T.C.A. § 10-7-504(a)–(m). Indeed, TDOC has furnished Petitioner with similar records in the past. Ex. A at 2.

9. In violation of § 10-7-503, Petitioner did not promptly receive the requested records, a basis for denying the request, or a form requesting additional time to produce the requested records. *See* Exs. A (1)–(2), B.

10. As a result, Petitioner followed up via email with TDOC General Counsel Debbie Inglis to check the status of his request on September 11, 2019. Ex. C.

11. After Petitioner's initial follow-up did not receive a response, Petitioner sent an additional follow-up email to Ms. Inglis on September 18, 2019. Ex. D.

12. Petitioner also left multiple voicemails with Ms. Inglis in mid-September, which TDOC never responded to.

13. On September 23, 2019, Petitioner sent a reminder of his request to another employee at the TDOC, Dorinda Carter, via email. Ex. E.

14. Two days later, Ms. Carter responded that Petitioner could contact CoreCivic directly to obtain the requested records. CoreCivic is a private company that contracts with the TDOC to operate prisons that house state prisoners, even though Petitioner requested records in TDOC's possession and control, and Petitioner's public records request was made to TDOC, not CoreCivic. Ex. G.

15. Petitioner responded that the records he had requested in his previous requests were directed at TDOC, not CoreCivic, and the requested documents had always been under TDOC's possession and control. Ex. H.

16. Ms. Carter replied and said she understood and would get the records herself to deliver them to Petitioner. Ex. I.

17. However, by October 16, 2019, no records had been produced. Petitioner therefore reminded Ms. Carter of his request, and Ms. Carter responded that she was checking on the matter. Ex. J.

18. As of the date of this Petition, no records have been produced. Neither Ms. Carter nor anyone else from TDOC contacted Petitioner after October 16.

19. Petitioner's request was first submitted approximately four months ago. Petitioner has not received either the records, a denial of the request, or a form requesting additional time, which § 10-7-503 requires TDOC to produce within seven days of Petitioner's initial request.¹

20. The records that Petitioner is seeking are public records, and Respondent has no authority to refuse Petitioner's right to inspect or receive copies of the requested records.

21. The records that the Petitioner requested constitute public records under the Public Records Act. None of the exceptions to the act are applicable under these facts. Thus, TDOC's denial of Petitioner's access to these public records constitutes a willful violation under the Act necessitating the filing of the instant action pursuant to T.C.A. § 10-7-505, entitling the Petitioner to all reasonable costs and attorneys' fees.

¹ The Administrative Procedures and Regulations of the TDOC make clear that upon request, records shall "promptly" be made available to a requestor. According to these procedures, if it is not practicable for the record to be promptly available for inspection, the custodian must either furnish the requester with the records or deny the request in writing within seven days. *Administrative Policies and Procedures: State of Tennessee Department of Correction*, Tenn. Dep't of Correction 2 (2015), <https://www.tn.gov/content/dam/tn/correction/documents/216-01.pdf>. Here, however, several months have passed since Petitioner's initial request.

WHEREFORE, PETITIONER RESPECTFULLY REQUESTS THAT THIS COURT:

1. Issue an order requiring the Respondent to appear before this Court immediately, or in no event later than ten days, and show cause, if any can be shown, why this Petition should not be granted, as provided by T.C.A. § 10-7-505(b);
2. Grant Petitioner a declaratory judgment that documents in the possession, custody, or control of Respondent requested by the Petitioner are public records under Tennessee law and that Respondent's denial of access to these public records constitutes a willful violation of the Tennessee Public Records Act, T.C.A. §§ 10-7-501 to 10-7-505;
3. Grant Petitioner his reasonable costs and attorneys' fees pursuant to T.C.A. § 10-7-505(g); and
4. Grant Petitioner any such further relief to which he may be entitled.

Respectfully submitted,

By: /s/ G.S. Hans

G.S. HANS
STANTON FOUNDATION FIRST AMENDMENT CLINIC
VANDERBILT LAW SCHOOL
131 21st Avenue South Nashville, TN 37203
(615) 322-4964
gautam.hans@vanderbilt.edu
Counsel for Petitioner

Exhibit A

PRISON LEGAL NEWS

Dedicated to Protecting Human Rights

www.prisonlegalnews.org

Please Reply to:

Direct Dial: [REDACTED]
5331 Mt. View Rd. #130
Antioch, TN 37013

July 17, 2019

SENT VIA EMAIL ONLY

Neysa Taylor
Tennessee Dept. of Correction
320 6th Avenue North
Rachel Jackson Building
Nashville, TN 37243-0465

RE: Public Records Act Request

Dear Neysa,

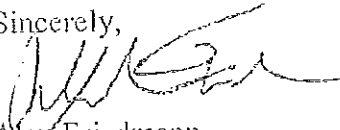
This is a request under Tennessee's Public Records Act (T.C.A. § 10-7-503, *et seq.*) for records maintained by the Tennessee Department of Correction. I am requesting copies of the following documents:

Employee termination logs for the Hardeman County, Whiteville, South Central and Trousdale-Turner Correctional Facilities, covering the time period of January 1, 2017 through June 1, 2019. A copy of a termination log previously produced by the TDOC is attached as an example of the type of records I am requesting.

If this request is denied in whole or in part, please notify me promptly and specify any exemptions you are claiming under T.C.A. § 10-7-504 or other statutory authority. I am requesting that these records be produced in electronic format if they are available in electronic format.

Thank you for your time and attention in this regard;

Sincerely,



Alex Friedmann
Managing Editor, PLN

Attachment

PLN is a project of the Human Rights Defense Center

Public records request

Alex F. <[redacted]>
To: Neysa Taylor <[redacted]>


Wed, Jul 17, 2019 at 6:47 PM

Hi Neysa,

Please see attached for a public records request -- thanks!

--
Alex Friedman
Managing Editor, PLN
www.prisonlegalnews.org

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 PRA to TDOC re termination logs 7-17-19.pdf
125K

Following up on public records request

Wed, Sep 11, 2019 at 12:16 PM

Alex F. <[Redacted]>
To: Debbie Inglis <[Redacted]>

Ms. Inglis,

Please see the below email and attached public records request that was sent to Neysa Taylor on July 17. It may have fallen through the cracks, as I have received no response since it was submitted. Please advise, and have one of your staff contact me in this regard.

Many thanks;

--
Alex Friedmann
Managing Editor, PLN
www.prisonlegalnews.org

[Redacted]

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----- Forwarded message -----

From: Alex F. <[Redacted]>
Date: Wed, Jul 17, 2019 at 6:47 PM
Subject: Public records request
To: Neysa Taylor <[Redacted]>

Hi Neysa,

Please see attached for a public records request -- thanks!

--
Alex Friedmann
Managing Editor, PLN
www.prisonlegalnews.org

[Redacted]

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 PRA to TDOC re termination logs 7-17-19.pdf
129K

Exhibit D

AF <[REDACTED]>

Following up on public records request

Wed, Sep 18, 2019 at 11:42 AM

Alex F. <[REDACTED]>
Cc: Debbie Inglis <[REDACTED]>

Ms. Inglis,

Please see below -- I'm following up again. The TDOC failed to respond to my records request, which was submitted on July 17. The department is far past the required time for a response, and you have not responded to my email regarding this issue, sent a week ago.

A two-month delay after a public records request is submitted is not acceptable. Please advise.

Alex Friedmann
Managing Editor, PLN
www.prisonlegalnews.org



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[Quoted text hidden]

Female Commissary

Mon, Sep 23, 2019 at 3:42 PM

Alex F. <[Redacted]>
To: Dorinda Carter <[Redacted]>
Cc: "Alex F." <[Redacted]>

Sounds good. Glad to have you back, regardless.

I have an outstanding public records request that was submitted to Neysa on July 17, with no response from the TDOC. I've sent multiple follow-up requests directly to Debbie Inglis, and left her a voice message, with no response.

I've always tried to work with the TDOC on records-related issues, but this is headed to litigation if we can't resolve it soon, FYI. If you can check on it, that would be appreciated. See attached.

--
Alex Friedmann
Managing Editor, PLN
www.prisonlegalnews.org

[Redacted]
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[Quoted text hidden]


 PRA to TDOC re termination logs 7-17-19.pdf
129K

Exhibit F

[Redacted]

Female Commissary

Dorinda Carter <[Redacted]>
To: "Alex F." <[Redacted]>

Mon, Sep 23, 2019 at 4:34 PM

Ok, I will check on it.

Sent from my iPhone
(Quoted text hidden)

<PRA to TDOC re termination logs 7-17-19.pdf>

CoreCivic

Exhibit 6

A.F. <[REDACTED]>

Female Commissary

Dorinda Carter <[REDACTED]>

Wed, Sep 25, 2019 at 5:36 PM

To: "Alex F." <[REDACTED]>

Alex,

CoreCivic said they could get the termination records to you if you contact publicaffairs@corecivic.com. Let me know if that works for you? Thanks.

[Quoted text hidden]

Exhibit H

AFS

Female Commissary

Alex F. <[REDACTED]>
To: Dorinda Carter <[REDACTED]>

Wed, Sep 25, 2019 at 5:40 PM

I have a problem with the TDOC referring my public records requests to CoreCivic, so no, that does not work for me.

The records I am requesting are on TOMIS, and in the TDOC's possession and control. I have requested similar records previously, and the TDOC produced them. This public records request was submitted to the TDOC, not to CoreCivic, and I am asking for the records from the TDOC, not from CoreCivic.

Please advise -- thanks!

--
Alex Friedmann
Managing Editor, PLN
www.prisonlegalnews.org

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[Quoted text hidden]

Exhibit II

[REDACTED]

Female Commissary

Dorinda Carter <[REDACTED]>
To: "Alex P." <[REDACTED]>

Wed, Sep 25, 2019 at 7:09 PM

Got it, I'm catching up on the processes here since I left. I will work to get the records myself and deliver them to you.

Sent from my iPhone
[Quoted text hidden]

Female Commissary

Alex F. <[REDACTED]>
Cc: Dorinda Carter <[REDACTED]>

Wed, Oct 16, 2019 at 2:58 PM

Hi Dorinda,

Following up on this -- see the below thread, and note this request was originally made on July 17. Please advise -- thanks!

Alex Friedmann
Managing Editor, PLN
www.prisonlegalnews.org

[REDACTED]

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[Quoted text hidden]

Exhibit 0

AP < [REDACTED] >

Female Commissary

Dorinda Carter < [REDACTED] >
To: "Alex F." < [REDACTED] >

Wed, Oct 16, 2019 at 3:11 PM

I'm checking on it now.



Dorinda Carter, Ph.D.

Tennessee Department of Correction

Staff Learning and Development Administrator

Rachel Jackson Building, 6th Floor

320 Sixth Avenue North, Nashville TN 37243



www.facebook.com/TNDepartmentofCorrection

<https://twitter.com/TNTDOC1>

<https://www.youtube.com/TNTDOC1>

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